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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,973	04/15/2004	Timothy Nephi Tillotson	10030535-1	7513

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AGILIENT TECHNOLOGIES, INC.  
Legal Department, DL429  
Intellectual Property Administration  
P.O. Box 7599  
Loveland, CO 80537-0599

EXAMINER
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NGUYEN, VAN H

ART UNIT	PAPER NUMBER
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2194

MAIL DATE	DELIVERY MODE
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03/05/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/824,973	<b>Applicant(s)</b> TILLOTSON ET AL.	
	<b>Examiner</b> VAN H. NGUYEN	<b>Art Unit</b> 2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 December 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8-11, 13, and 15-20 is/are rejected.
- 7) ☒ Claim(s) 5, 7, 12 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

1. This communication is responsive to the application filed 12/03/2007.

Claims 1-20 are presented for examination.

### **Claim Objections**

2. Claim 1 is objected to because of the following informalities:

*"determin"* (lines 16-17) should read *"determine"*. Appropriate correction is required.

### **Claim Rejections - 35 USC § 112**

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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- As to claim 15, "*the client program communication*" lacks antecedent basis.

Claim 15 has no "*a client program communication*" term that defines or supports the given reference.

- As to claim 17, "*the client program grammar communication*" lacks antecedent basis. Claim 15 has no "*a client program grammar communication*" term that defines or supports the given reference.

Dependent claims 18 and 19 are rejected for fully incorporating the deficiencies of their base claim.

### **Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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Claims 1-4, 6, 8-11, 13, and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fuller, III et al.** (US 7134081 B2) in view of **Gerber et al.** (US 20050091269 A1).

**As to claim 1:**

Fuller teaches a method for obtaining a client program grammar communication from an Application Programming Interface call to an instrument, comprising: obtaining the API call; when metadata is associated with the API call, obtaining the associated metadata (*see the instrument and API call discussion: col.4, lines 49-65; col.7, line 47-col.9, line 67; col.13, line 65-col.14, line 62; col.20, lines 17-36; and col.24, lines 53-60*).

Fuller, however, does not specifically teach the claimed automatically determine a best estimation and automatically obtain a best estimation.

Gerber teaches automatically determining a best estimation and automatically obtain a best estimation (§ 0445).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Fuller with Satoh because Satoh's teaching would have provided a more consistent mechanism for developing instrument drivers and instrumentation control software.

**As to claim 2:**

Fuller teaches the API call is a .NET API call (*see col.24, lines 53-60*).

**As to claim 3:**

Fuller teaches the client program grammar communication is a Standard Commands for Programmable Instrumentation communication (*see col.20, lines 17-36*).

**As to claim 4:**

Fuller teaches evaluating the obtained best estimation of the SCPI communication for conformance of the best estimation of the SCPI communication to SCPI specifications (*see col.4, lines 49-65; col.7, line 47-col.9, line 67; col.13, line 65-col.14, line 62; and col.20, lines 17-36*).

**As to claim 6:**

Fuller teaches evaluating the obtained best estimation of the SCPI communication for conformance of the best estimation of the SCPI communication to General-Purpose Interface Bus specifications (*see col.4, lines 49-65; col.7, line 47-col.9, line 67; col.13, line 65-col.14, line 62; and col.20, lines 17-36*).

**As to claims 8-11 and 13:**

Note the rejection of claims 1-4 and 6 above. Claims 8-11 and 13 are the same as claims 1-4 and 6, except claims 8-11 and 13 are computer readable memory device claims and claims 1-4 and 6 are method claims.

**As to claims 15-19:**

Note the rejection of claims 1-4 and 6, respectively. Claims 15-19 are the same as claims 1-4 and 6, except claims 15-19 are system claims and claims 1-4 and 6 are method claims.

**As to claim 20:**

Fuller teaches GPIB specifications are specified by the Institute of Electrical and Electronic Engineers (IEEE) specification number, IEEE 488.1 (*see col.2, lines 22-55*).

**Indication of Allowable Subject Matter**

5. Claims 5, 7, 12, and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims subject to the objections detailed above, and subject to a final search.

### **Response to Arguments**

6. Applicant's arguments filed 12/03/2007 have been considered but are moot in view of the new ground(s) of rejection.

### **Contact Information**

7. Any inquiry or a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: (571) 272-2100.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VAN H. NGUYEN whose telephone number is (571) 272-3765. The examiner can normally be reached on Monday-Thursday from 8:30AM 6:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM THOMSON can be reached at (571) 272-3718.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VAN H NGUYEN/  
Primary Examiner, Art Unit 2194